

HB3287



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3287

Introduced 2/19/2021, by Rep. Kathleen Willis

SYNOPSIS AS INTRODUCED:

720 ILCS 675/1

from Ch. 23, par. 2357

Amends the Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act. Provides that a person selling, offering for sale, giving, or furnishing a tobacco product, electronic cigarette, or alternative nicotine product may verify that a person receiving the tobacco product, electronic cigarette, or alternative nicotine product is at least 21 years of age by examining a government-issued photographic identification and performing age verification through enhanced controls that utilize a scanning technology or other automated, software-based system.

LRB102 14166 KMF 19518 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Prevention of Tobacco Use by Persons under
5 21 Years of Age and Sale and Distribution of Tobacco Products
6 Act is amended by changing Section 1 as follows:

7 (720 ILCS 675/1) (from Ch. 23, par. 2357)

8 Sec. 1. Prohibition on sale of tobacco products,
9 electronic cigarettes, and alternative nicotine products to
10 persons under 21 years of age; prohibition on the distribution
11 of tobacco product samples, electronic cigarette samples, and
12 alternative nicotine product samples to any person; use of
13 identification cards; vending machines; lunch wagons;
14 out-of-package sales.

15 (a) No person under 21 years of age shall buy any tobacco
16 product, electronic cigarette, or alternative nicotine
17 product. No person shall sell, buy for, distribute samples of
18 or furnish any tobacco product, electronic cigarette, or any
19 alternative nicotine product to any person under 21 years of
20 age.

21 (a-5) No person under 16 years of age may sell any tobacco
22 product, electronic cigarette, or alternative nicotine product
23 at a retail establishment selling tobacco products, electronic

1 cigarettes, or alternative nicotine products. This subsection
2 does not apply to a sales clerk in a family-owned business
3 which can prove that the sales clerk is in fact a son or
4 daughter of the owner.

5 (a-5.1) Before selling, offering for sale, giving, or
6 furnishing a tobacco product, electronic cigarette, or
7 alternative nicotine product to another person, the person
8 selling, offering for sale, giving, or furnishing the tobacco
9 product, electronic cigarette, or alternative nicotine product
10 shall verify that the person is at least 21 years of age by:

11 (1) examining from any person that appears to be under
12 30 years of age a government-issued photographic
13 identification that establishes the person to be 21 years
14 of age or older; ~~or~~

15 (2) for sales of tobacco products, electronic
16 cigarettes, or alternative nicotine products made through
17 the Internet or other remote sales methods, performing an
18 age verification through an independent, third party age
19 verification service that compares information available
20 from public records to the personal information entered by
21 the person during the ordering process that establishes
22 the person is 21 years of age or older; or ~~or~~

23 (3) examining a government-issued photographic
24 identification and performing age verification through
25 enhanced controls that utilize a scanning technology or
26 other automated, software-based system.

1 (a-6) No person under 21 years of age in the furtherance or
2 facilitation of obtaining any tobacco product, electronic
3 cigarette, or alternative nicotine product shall display or
4 use a false or forged identification card or transfer, alter,
5 or deface an identification card.

6 (a-7) (Blank).

7 (a-8) A person shall not distribute without charge samples
8 of any tobacco product to any other person, regardless of age,
9 except for smokeless tobacco in an adult-only facility.

10 This subsection (a-8) does not apply to the distribution
11 of a tobacco product, electronic cigarette, or alternative
12 nicotine product sample in any adult-only facility.

13 (a-9) For the purpose of this Section:

14 "Adult-only facility" means a facility or restricted
15 area (whether open-air or enclosed) where the operator
16 ensures or has a reasonable basis to believe (such as by
17 checking identification as required under State law, or by
18 checking the identification of any person appearing to be
19 under the age of 30) that no person under legal age is
20 present. A facility or restricted area need not be
21 permanently restricted to persons under 21 years of age to
22 constitute an adult-only facility, provided that the
23 operator ensures or has a reasonable basis to believe that
24 no person under 21 years of age is present during the event
25 or time period in question.

26 "Alternative nicotine product" means a product or

1 device not consisting of or containing tobacco that
2 provides for the ingestion into the body of nicotine,
3 whether by chewing, smoking, absorbing, dissolving,
4 inhaling, snorting, sniffing, or by any other means.
5 "Alternative nicotine product" does not include:
6 cigarettes as defined in Section 1 of the Cigarette Tax
7 Act and tobacco products as defined in Section 10-5 of the
8 Tobacco Products Tax Act of 1995; tobacco product and
9 electronic cigarette as defined in this Section; or any
10 product approved by the United States Food and Drug
11 Administration for sale as a tobacco cessation product, as
12 a tobacco dependence product, or for other medical
13 purposes, and is being marketed and sold solely for that
14 approved purpose.

15 "Electronic cigarette" means:

16 (1) any device that employs a battery or other
17 mechanism to heat a solution or substance to produce a
18 vapor or aerosol intended for inhalation;

19 (2) any cartridge or container of a solution or
20 substance intended to be used with or in the device or
21 to refill the device; or

22 (3) any solution or substance, whether or not it
23 contains nicotine intended for use in the device.

24 "Electronic cigarette" includes, but is not limited
25 to, any electronic nicotine delivery system, electronic
26 cigar, electronic cigarillo, electronic pipe, electronic

1 hookah, vape pen, or similar product or device, and any
2 components or parts that can be used to build the product
3 or device. "Electronic cigarette" does not include:
4 cigarettes as defined in Section 1 of the Cigarette Tax
5 Act and tobacco products as defined in Section 10-5 of the
6 Tobacco Products Tax Act of 1995; tobacco product and
7 alternative nicotine product as defined in this Section;
8 any product approved by the United States Food and Drug
9 Administration for sale as a tobacco cessation product, as
10 a tobacco dependence product, or for other medical
11 purposes, and is being marketed and sold solely for that
12 approved purpose; any asthma inhaler prescribed by a
13 physician for that condition and is being marketed and
14 sold solely for that approved purpose; or any therapeutic
15 product approved for use under the Compassionate Use of
16 Medical Cannabis Pilot Program Act.

17 "Lunch wagon" means a mobile vehicle designed and
18 constructed to transport food and from which food is sold
19 to the general public.

20 "Nicotine" means any form of the chemical nicotine,
21 including any salt or complex, regardless of whether the
22 chemical is naturally or synthetically derived.

23 "Tobacco product" means any product containing or made
24 from tobacco that is intended for human consumption,
25 whether smoked, heated, chewed, absorbed, dissolved,
26 inhaled, snorted, sniffed, or ingested by any other means,

1 including, but not limited to, cigarettes, cigars, little
2 cigars, chewing tobacco, pipe tobacco, snuff, snus, and
3 any other smokeless tobacco product which contains tobacco
4 that is finely cut, ground, powdered, or leaf and intended
5 to be placed in the oral cavity. "Tobacco product"
6 includes any component, part, or accessory of a tobacco
7 product, whether or not sold separately. "Tobacco product"
8 does not include: an electronic cigarette and alternative
9 nicotine product as defined in this Section; or any
10 product that has been approved by the United States Food
11 and Drug Administration for sale as a tobacco cessation
12 product, as a tobacco dependence product, or for other
13 medical purposes, and is being marketed and sold solely
14 for that approved purpose.

15 (b) Tobacco products, electronic cigarettes, and
16 alternative nicotine products may be sold through a vending
17 machine only if such tobacco products, electronic cigarettes,
18 and alternative nicotine products are not placed together with
19 any non-tobacco product, other than matches, in the vending
20 machine and the vending machine is in any of the following
21 locations:

22 (1) (Blank).

23 (2) Places to which persons under 21 years of age are
24 not permitted access at any time.

25 (3) Places where alcoholic beverages are sold and
26 consumed on the premises and vending machine operation is

1 under the direct supervision of the owner or manager.

2 (4) (Blank).

3 (5) (Blank).

4 (c) (Blank).

5 (d) The sale or distribution by any person of a tobacco
6 product as defined in this Section, including but not limited
7 to a single or loose cigarette, that is not contained within a
8 sealed container, pack, or package as provided by the
9 manufacturer, which container, pack, or package bears the
10 health warning required by federal law, is prohibited.

11 (e) It is not a violation of this Act for a person under 21
12 years of age to purchase a tobacco product, electronic
13 cigarette, or alternative nicotine product if the person under
14 the age of 21 purchases or is given the tobacco product,
15 electronic cigarette, or alternative nicotine product in any
16 of its forms from a retail seller of tobacco products,
17 electronic cigarettes, or alternative nicotine products or an
18 employee of the retail seller pursuant to a plan or action to
19 investigate, patrol, or otherwise conduct a "sting operation"
20 or enforcement action against a retail seller of tobacco
21 products, electronic cigarettes, or alternative nicotine
22 products or a person employed by the retail seller of tobacco
23 products, electronic cigarettes, or alternative nicotine
24 products or on any premises authorized to sell tobacco
25 products, electronic cigarettes, or alternative nicotine
26 products to determine if tobacco products, electronic

1 cigarettes, or alternative nicotine products are being sold or
2 given to persons under 21 years of age if the "sting operation"
3 or enforcement action is approved by, conducted by, or
4 conducted on behalf of the Department of State Police, the
5 county sheriff, a municipal police department, the Department
6 of Revenue, the Department of Public Health, or a local health
7 department. The results of any sting operation or enforcement
8 action, including the name of the clerk, shall be provided to
9 the retail seller within 7 business days.

10 (Source: P.A. 101-2, eff. 7-1-19.)